

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1923.02
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: May 28, 2002
DATE OF REPORT: June 26, 2002
REQUEST FOR RECONSIDERATION: yes/revised July 26, 2002
DATE OF CLOSURE: September 27, 2002

COMPLAINT ISSUES:

Whether the Franklin Community School Corporation and the Johnson County Special Services violated:

511 IAC 7-27-6 by failing to include in the student's individualized education program (IEP):

- a. a statement of how the student's parents will be regularly informed, at least as often as parents are informed of their nondisabled student's progress, of the student's progress made toward the annual goals;
- b. measurable short-term objectives or benchmarks related to the student's annual goals;
- c. the location as to where speech therapy services would be provided;
- d. a statement of supplementary aids and services, including modifications and accommodations, that are to be provided to the student; and
- e. a statement of the identification of the placement in the least restrictive environment for IEPs written during the 2000-2001 school year.

511 IAC 7-27-9(b) by failing to make available to a student with a disability the variety of educational programs and services that are made available to nondisabled students, specifically, failing to provide the parent with grades for art, physical education, and music classes during the 2000-2001 and 2001-2002 school years.

511 IAC 7-27-4 by failing to utilize the case conference committee (CCC) to determine the student's placement, specifically, unilaterally determining the amount of time the student will participate in the general education classroom.

511 IAC 7-25-5(e) by failing to ensure the CCC considered the results of independent occupational therapy and behavioral evaluations obtained by the parents at CCC meetings convened on February 26 and March 21, 2002.

511 IAC 7-26-2(d) by failing to provide specialized inservice training to all professional and paraprofessional staff working with the student in the area of autism spectrum disorder during the 2000-2001 and 2001-2002 school years.

511 IAC 7-27-5 by failing to prepare a written report of the CCC meetings convened during the 2000-2001 and 2001-2002 school years.

FINDINGS OF FACT:

1. The student is seven years old, will attend the second grade this fall, and has been determined eligible for special education due to autism and a communication disorder. An IEP was developed for the student on March 21, 2002. The parent has not agreed to its implementation, as she is of the opinion the IEP contains deficiencies that need to be addressed in a complaint investigation.
2. The parent contends that the student's IEP dated March 21st does not contain a statement of how the parent will be informed of the student's progress made toward annual goals, at least as often as parents are informed of their nondisabled student's progress. The March 21st IEP contains seven annual goals. Each goal sheet specifies how the parent will be informed of the student's progress. The goal sheet also includes a "Review of Progress" section that allows progress to be recorded six times during the school year, as well as a section to include the date the goal sheet was sent to the parent. These six sections correspond with the six grading periods for the school.
3. The parent asserts that the March 21, 2002, IEP does not contain measurable short-term objectives or benchmarks related to the student's annual goals. Measurable short-term objectives or benchmarks are a required component of an IEP. The March 21st IEP contains seven annual goals. The IEP reflects that there are measurable short-term objectives or benchmarks related to each of the seven goals developed for the student.
4. The parent states that the location as to where speech therapy services will be provided for the student is not specified in the March 21st IEP. Page 14 of the March 21st IEP indicates that the student will receive speech therapy three times per week for 30 minutes. Where the service will be provided is not listed in the IEP. The director acknowledges that the location as to where speech therapy services will be provided is not specified in the IEP dated March 21st.
5. The parent alleges that the March 21st IEP fails to contain a statement of supplementary aids and services, including modifications and accommodations, to be provided to the student. Five services are listed on page 14 of the IEP under the heading "Special Education, Related Services, and Supplementary Aids and Services Needed." The services listed are: essential skills classes, transportation, speech therapy, occupational therapy in a general education setting, and physical therapy. Three accommodations/modifications are listed on page 14 of the IEP under the heading "Accommodations/Modifications Necessary to Access General Curriculum and/or Achieve Goals." The accommodations/modifications listed are: verbal responses will not be required to meet goals or benchmarks, alternative methods of communicating will be accepted (i.e., pointing to correct pictures or words), and adult supervision and assistance in inclusion classes.
6. The parent contends that a statement of the identification of the student's placement in the least restrictive environment was not included in the IEP written during the 2000-2001 school year. During the 2000-2001 school year only one IEP was written for the student. The IEP is dated April 10, 2001. The IEP has a beginning date of August 16, 2001, and an ending date of June 1, 2002. Page twelve of the IEP reflects that for speech therapy goals the student will receive special education and related services outside the general education classroom for less than 21% of the school day, and for special education goals the student will receive special education and related services outside the general education classroom for more than 60% of the school day.
7. The parent states that the student never received grades for art, physical education, and music classes during the 2000-2001 and 2001-2002 school years. Grades for art, music, and physical education are not issued for any first-grade student attending the same elementary school as the Student; however, teachers issue progress reports at the semester and at the end of the school year. The Director acknowledges that no progress report was issued for the Student at the semester, but attempted to rectify the situation by sending a written progress report home at the third quarter and at the end of the year.

8. The parent contends that the percentage of time the student would participate in the general education classroom, as specific in the annual goal written on page nine of the March 21st IEP, was not discussed at the CCC meeting, and therefore, was a unilateral decision made by school personnel. The director acknowledges that the percentage of time the student would participate in the general education classroom in regards to the annual goal written on page nine of the March 21st IEP was determined by school personnel outside of a CCC meeting.
9. At the time the complaint was filed, the parent alleged that independent occupational therapy and behavioral evaluations were not considered by the CCC at CCC meetings convened on February 26 and March 21, 2002. Later in the investigation, the parent acknowledged that a behavioral evaluation was never submitted to school personnel for their review. The director acknowledges that a behavioral plan was submitted by a private therapist who works with the student, but states that the CCC never received an independent behavioral evaluation for review. The parent is in agreement with the director's acknowledgment. The director reports that school personnel were surveyed and that no staff member recalls receiving any independent occupational therapy evaluation from the parent. There is no mention of an independent occupational therapy evaluation being submitted to the CCC for review in the CCC Reports/IEPs developed on February 26 and March 21, 2002. The parent reports that she does not have any documentation available to verify that school personnel received a copy of an independent occupational therapy evaluation.
10. The director provided a listing of all staff members who worked with the student during the 2000-2001 and 2001-2002 school years. Eleven professional and paraprofessional staff members have worked with the student during this two-year time period. Of these eleven individuals, only two received formal inservice training in the area of autism spectrum disorder prior to working with the student. Staff working with the student were also provided informal training during the school year by the school's autism team coordinator and the student's teacher of record.
11. The parent asserts that school personnel failed to prepare written reports of the CCC meetings convened during the 2000-2001 and 2001-2002 school years. During these two school years CCC Reports/IEP were written and/or reviewed on April 11 and May 23, 2000; April 10, 2001; and February 26 and March 21, 2002. At the student's school corporation, the CCC Report and IEP is a single document. The required components of both the CCC Report and the IEP have been incorporated into the one form. The CCC Reports/IEPs developed for the student during the 2000-2001 and 2001-2002 school years contain all requirements specified in 511 IAC 7-27-5. The parent acknowledges receipt of the CCC Reports/IEPs for the dates listed above.

CONCLUSIONS:

1. 511 IAC 7-27-6(a)(7) requires a student's IEP to include a statement of how parents will be informed of the student's progress and how frequently such progress will be reported to the parents. Progress reports must be provided at least as frequently as progress is reported for nondisabled students. Finding of Fact #2 indicates that the student's IEP dated March 21, 2002, describes how the student's progress will be reported, and includes a section for the progress to be reported at each of the six reporting periods in which progress is reported for nondisabled students. Therefore, no violation of 511 IAC 7-27-6 is found. Although this information is included in the student's IEP, the school should ensure that the parent understands that the "Review of Progress" section indicates that how frequently progress will be reported. The school should also ensure that the option of reporting progress more frequently than the standard school reporting periods is made available when the CCC determines more frequent reporting is needed.

2. Finding of Fact #3 reflects that the March 21st IEP contains measurable short-term objectives or benchmarks related to the student's annual goals. Therefore, no violation of 511 IAC 7-27-6 is found.
3. Finding of Fact #4 establishes that the location as to where speech therapy services would be provided was not listed in the March 21st IEP. Therefore, a violation of 511 IAC 7-27-6 is found.
4. Finding of Fact #5 establishes that the March 21st IEP contains a statement of supplementary aids and services, including modifications and accommodations, that are to be provided to the student. Therefore, no violation of 511 IAC 7-27-6 is found.
5. Finding of Fact #6 establishes that the March 21st IEP contains a statement of the identification of the student's placement in the least restrictive environment. Therefore, no violation of 511 IAC 7-27-6 is found.
6. Finding of Fact #7 establishes that nondisabled students of the same grade level as the student do not receive actual grades for art, physical education, and music. However, progress reports are issued in these areas at the semester and end of the year. Although the school failed to provide a progress report at the semester, it provided the report at the third quarter and again at the end of the school year. Therefore, no violation of 511 IAC 7-27-9(b) is found.
7. Finding of Fact #8 reflects that school personnel determined outside of a CCC meeting the amount of time the student would participate in the general education classroom. Therefore, a violation of 511 IAC 7-27-4 is found.
8. Finding of Fact #9 indicates that the parent acknowledges that a behavioral evaluation was not submitted to school personnel for review at a CCC meeting. Finding of Fact #9 also reflects that school personnel report that an independent occupational evaluation was never received from the parent, and that the parent was unable to provide documentation to verify that school personnel failed to consider the results of an independent occupational therapy evaluation at CCC meetings. Therefore, no violation of 511 IAC 7-25-5(e) is found.
9. Finding of Fact #10 establishes that nine out of the eleven staff members working with the student during the 2000-2001 and 2001-2002 school years failed to receive inservice training in the area of autism spectrum disorder prior to working with the student. Although informal training and support were provided, this does not suffice for the formal inservice training required for staff working with a student with autism spectrum disorder. Therefore, a violation of 511 IAC 7-26-2(d) is found.
10. Finding of Fact #11 reflects that school personnel prepared written reports of the CCC meetings convened during the 2000-2001 and 2001-2002 school years. Therefore, no violation of 511 IAC 7-27-5 is found.

The Department of Education, Division of Exceptional Learners, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Franklin Community School and the Johnson County Special Services shall:

1. Convene a CCC meeting no later than the first day of school for the 2002-2003 school year to address the following deficiencies in the proposed IEP dated March 21, 2002:
 - a. the location as to where speech therapy services will be provided; and
 - b. the amount of time the student will participate in the general education classroom.

The CCC shall also ensure that the parent understands and agrees with the frequency with which the student's progress will be reported. Submit to the Division no later than September 18, 2002, a copy of the CCC Report/IEP developed for the student.

2. Send a memorandum to all appropriate personnel advising them of the requirements specified in 511 IAC 7-26-2 (d), 511 IAC 7-27-4, 511 IAC 7-27-6, and 511 IAC 7-27-9(b), and how noncompliance with these regulations impacted the results of the complaint investigation. Submit a copy of the memorandum to the Division no later than September 18, 2002. Include with the memorandum a listing (name and title) of all individuals to whom the memorandum was sent.
3. Submit an assurance statement to the Division no later than July 26, 2002, that training will be provided in a timely manner for all personnel working with students who have disabilities that require the personnel to have specialized inservice training.